IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4481 OF 2003

Dr. Subramaniam Sitaram ... Petitioner

V/s

Mulchand Holaram Hemrajani
(since deceased, through)
1-A. Kamlesh Mulchand Hemrajani & anr. ... Respondents

Mr. Rajesh Ketkar for the petitioners.

Mr. G.B. Bhatt for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 10TH APRIL, 2006

P.C.:

1. Heard learned counsel for both parties.

2. The petitioner tenant has preferred this petition against the order dated 9.6.2003 passed by the lower appellate Court in dismissing the appeal and confirming the order passed by the Trial Court dated 10.12.2002 discharging the notice which was moved for temporary injunction pending the R.A.D. Suit No. 2336 of 1999.

3. It appears that the entire controversy revolves

around a right to park the vehicle inside the compound of the building belonging to the respondents. The learned counsel for the petitioner seeks to rely upon two documents namely the letters written by himself to the landlord in order to show that there existed right in his favour to park the vehicle in the compound. According to the petitioner, he was allowed to utilize the garage located in the "Hem Kutir" as part and parcel of his tenancy and on the request of the landlord he shifted from the garage and surrendered the possession and parked his car inside the compound.

4. However, it is to be noted that there is absolutely no iota of evidence to show that any vested right existed in favour of the petitioner tenant to park his vehicle inside the compound or garage was part and parcel of his tenancy agreement.

5. On perusal of the order passed by both the Courts below, I see no reason to interfere in the matter as the reasoning adopted and findings recorded by both the Courts below are just, legal and proper.

6. In the result, the petition stands dismissed with no order as to costs.

7. It is clarified that the Trial Court, while adjudicating the dispute on merits, shall not be influenced by the observations made hereinabove.

C. c. expedited.

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